

JOHN H. HEMANN (SBN: 165823)
JOSEPH E. FLOREN (SBN 168292)
THOMAS R. GREEN (SBN: 203480))
MATTHEW S. WEILER (SBN 236052)
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126
Tel: 415.442.1000
Fax: 415.442.1001
E-mail: jhemann@morganlewis.com
jflore@morganlewis.com
tgreen@morganlewis.com
mweiler@morganlewis.com

Attorneys for Defendant KLA-Tencor Corporation

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CHRIS CRIMI, on Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

vs.

EDWARD W. BARNHOLT, H. RAYMOND
BINGHAM, ROBERT T. BOND, RICHARD J.
ELKUS, JR., STEPHEN P. KAUFMAN,
KENNETH LEVY, MICHAEL E. MARKS,
DEAN O. MORTON, KENNETH L.
SCHROEDER, JON D. TOMPKINS,
RICHARD P. WALLACE, KLA-TENCOR
CORPORATION, and DOES 1 through 25,

Defendants.

Case No. CV-08-2249 CRB

**STIPULATION AND [PROPOSED]
ORDER RE: WITHDRAWAL OF
PENDING MOTIONS AND FILING
OF SECOND AMENDED
COMPLAINT**

DATE: July 25, 2008
TIME: 10:00 A.M.
DEP'T: Courtroom 8

Hon. Charles R. Breyer

Plaintiff Chris Crimi ("Plaintiff") and Defendant KLA-Tencor Corporation ("KLA"
or the "Company") hereby stipulate as follows:

WHEREAS KLA removed this action from the Superior Court of the State of
California for the County of Santa Clara;

WHEREAS KLA filed a Motion to Dismiss pursuant to Federal Rule of Civil
Procedure 12(b)(6);

WHEREAS Plaintiff filed a Motion to Remand;

1 WHEREAS Plaintiff filed his Opposition to KLA's Motion to Dismiss and two
2 additional motions in conjunction with his opposition, a Motion to Strike Pages in Excess of
3 Court's Standing Order No. 5 and a Motion for Leave to Amend, attaching a [Proposed]
4 Second Amended Complaint For Breaches of Fiduciary Duties;

5 WHEREAS KLA discovered that it had mistakenly filed a Memorandum of Points
6 and Authorities in excess of the Court's page limitation in support of its Motion to Dismiss
7 without leave of Court;

8 WHEREAS Plaintiff desires to file his Second Amended Complaint;

9 WHEREAS the parties agree that it will save the time and limited resources of the
10 Court and all parties for the parties to withdraw all pending motions and permit Plaintiff to
11 file the Second Amended Complaint and for the pending motions to dismiss and to remand
12 to be reset thereafter;

13 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

14 1. KLA shall withdraw its pending Motion to Dismiss.

15 2. Plaintiff shall withdraw its three pending motions, the Motion to Remand, the
16 Motion to Strike and the Motion for Leave to Amend.

17 3. KLA stipulates to allow Plaintiff to file the Second Amended Complaint but
18 reserves all rights and arguments with respect to the Second Amended Complaint;

19 4. Plaintiff shall file the Second Amended Complaint on July 11, 2008.

20 5. KLA shall file its Rule 12 motion(s) in response to Plaintiff's Second Amended
21 Complaint on August 8, 2008 and notice any Rule 12 motion(s) to be heard on September
22 12, 2008.

23 6. Plaintiff shall file any Motion to Remand on August 8, 2008 and notice any such
24 motion to be heard on September 12, 2008.

25 7. The parties will follow a regularly scheduled 35 day motion calendar with respect
26 to any opposition or reply briefs filed in connection with any motion filed pursuant to this
27 stipulation.
28

1 Dated: July 2, 2008

John H. Hemann
Joseph E. Floren
Matthew Weiler
MORGAN LEWIS & BOCKIUS LLP

2
3
4
5 By: _____/s/
6 Thomas R. Green
7 One Market Spear Street Tower
8 San Francisco, CA 94105-1126
9 Tel: (415) 442-1000
10 Fax: (415) 442-1001

11 Counsel for Defendant

12 I, Thomas R. Green, am the ECF User whose ID and password are being used to file this
13 Stipulation and [Proposed] Order Re: Withdrawal of Pending Motions and Filing of Second
14 Amended Complaint. In compliance with General Order 45, X.B., I hereby attest that the
15 signatory below has concurred in this filing.

16 Dated: July 2, 2008

Patrice L. Bishop
STULL, STULL & BRODY

17 By: _____/s/
18 Patrice L. Bishop
19 10940 Wilshire Boulevard, Suite 2300
20 Los Angeles, CA 90024
21 Tel: (310) 209-2468
22 Fax: (310) 209-2087

23 Jules Brody
24 Aaron L. Brody
25 STULL, STULL & BRODY
26 6 East 45th Street
27 New York, NY 10017
28 Tel: (212) 687-7230
Fax: (212) 490-2022

Counsel for Plaintiff

[PROPOSED] ORDER

Pursuant to the stipulation of the parties, and for good cause shown, IT IS HERE BY ORDERED:

1. KLA shall withdraw its pending Motion to Dismiss.

2. Plaintiff shall withdraw its three pending motions, the Motion to Remand, the Motion to Strike and the Motion for Leave to Amend.

3. KLA stipulates to allow Plaintiff to file the Second Amended Complaint but reserves all rights and arguments with respect to the Second Amended Complaint;

4. Plaintiff shall file the Second Amended Complaint on July 11, 2008.

5. KLA shall file its Rule 12 motion(s) in response to Plaintiff's Second Amended Complaint on August 8, 2008 and notice any Rule 12 motion(s) to be heard on September 12, 2008.

6. Plaintiff shall file any Motion to Remand on August 8, 2008 and notice any such motion to be heard on September 12, 2008.

7. The parties will follow a regularly scheduled 35 day motion calendar with respect to any opposition or reply briefs filed in connection with any motion filed pursuant to this stipulation.

Dated:

Hon. Charles R. Breyer
U.S. District Court Judge